IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

REVIEW APPLICATION NO. 9 OF 2004
IN
SECOND APPEAL NO. 815 OF 2004

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri S.G.Kudle for the Petitioners.

Shri Ajay A.Joshi for the Resondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 14th Sept., 2004.

P.C.:

1. Heard learned Counsel appearing for the parties. Shri Kudle submitted that there is a clear admission given by the Plaintiff in his cross-examination that the Plaintiff purchased Gat No.351 on the same day on which Gat No.220 was purchased. He submitted that in view of this admission, it will have to be held that even Get No.351 is a property purchased by utilising the joint family funds and the same should have been made subject matter of partition in the suit filed by the original Plaintiff. He submitted that in view of the said admission, the order passed in Second Appeal needs reconsideration.

2. I have perused the Written Statement of the

Appellants. In paragraph 11 of the Written Statement, reference is made to the purchase by the original Plaintiff of land bearing Gat No.351. However, there is no plea specifically raised that the property is purchased by utilising the income received from the joint family property. Even in cross-examination of the Plaintiff no specific suggestion is given that the income received by the Plaintiff from the joint family property or joint family fund is utilised for purchasing Gat No.351.

3. The Appellate Court has rejected the said contention of the Appellants in respect of land bearing Gat No.351 by holding that there is no specific pleading.

4. In the circumstances, no case is made out for review. The Application for Review is rejected with no order as to costs.

5. Parties be given authenticated copy of this order.

Judge.